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No. 85-54615

MARGARET FAULKINBURY, Individually and as Independent Executrix of the Estate of VIRGIL FAULKINBURY	*	IN THE DISTRICT COURT OF
VS.	*	HARRIS COUNTY, T E X A S
BROWN & WILLIAMSON TOBACCO CORPORATION, FLEMING COMPANIES, INC., FLEMING FOODS OF TEXAS, INC., THE TOBACCO INSTITUTE and THE COUNCIL FOR TOBACCO RESEARCH - U.S.A., INC.	*	61ST JUDICIAL DISTRICT

VOLUME II

DEPOSITION OF

MARGARET FAULKINBURY

August 12, 1986
Four Seasons Hotel, 1300 Lamar
Houston, Texas

Reported by:

C. DIXON TOWERY, III
Texas CSR No. 2635/Notary Public
Nell McCallum & Associates
2900 Smith, Suite 104
Houston, Texas 77006
(713) 523-3767

Cost: $_____
Charged to Paul E. Stallings, Bar No. 19019000
Attorney for Defendant Brown & Williamson Tobacco Corporation

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Also Present:

Virginia Colton
Lisa Paulson

****

Deposition of MARGARET FAULKINBURY, a witness called by Defendant on August 12, 1986, at Four Seasons Hotel, 1300 Lamar, Houston, Texas, commencing at 8:35 a.m., before C. Dixon Towery, III, CSR No. 2635 and Notary Puolic in and for the State of Texas.

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PROCEEDINGS

CONTINUED EXAMINATION BY MR. STALLINGS:

Q. Good morning, Mrs. Faulkinbury. How do you feel this morning?

A. Fine, thank you.

Q. I'd like to go back and ask you a couple of questions about Virge's family.

Mr. Henry Miles Faulkinbury died in about 1977?

A. I think that's about right.

Q. What did he die of; do you know?

A. I can't remember. He just had a lot of fluid on his lungs and died. They couldn't keep it off.

Q. How about Mrs. Effie Jane Burnett, his mother, Effie Jane Burnett Faulkinbury?

A. She fell and broke her shoulder, and I think she had a blood clot in the lung.

Q. And of Virge's brothers and sisters, he lost one brother who died in infancy?

A. Yes.

Q. And his other brother and his other sister are still alive?

A. Yes.

Q. Do you know the cause of death of Virge's grandparents on either side?

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A. No, unless his sister told me. I don't know.
Q. Did his sister tell you?
A. I don't know. Well, it says here that one died of tuberculosis and one broke her hip. That's all I know.
Q. One of his uncles, his uncle Tony, died of lung cancer?
A. Yes.
Q. Did you know Uncle Tony?
A. Yes.
Q. Where did he die?
A. Texarkana, Arkansas.
Q. Is he buried there in Miller County?
A. Yes.
Q. You tell us there that one of his mother's brothers, Austin Burnett, died of heart disease; right?
A. Yes.
Q. Then you say three of his aunts, his mother's sisters -- or he had three aunts on his mother's side of the family. One had cancer of the female organs. Do you know her name?
A. No, I don't remember which one it was.
Q. Do you know the name of the one of his aunts that lives in Big Spring?
A. Minnie something. I don't know her last name.

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Q. How about the other aunt you don't know? Where does she live? Do you know her name?

A. There were two I coulan't keep apart. I never could tell which one was which, because I didn't see them that often.

Q. You don't know her name, the third one?

A. No.

Q. Mrs. Faulkinbury, when did Virge's Uncle Tony die?

A. I can't remember. It was probably maybe late '60's, early '70's.

Q. Did you and Virge attend his funeral?

A. I think Virge did.

Q. Yesterday you mentioned that you had seen some various sources of information that was the basis of your belief that smoking was related to breathing difficulties, coughing, pulmonary problems and lung cancer. Do you recall that testimony?

A. Yes.

Q. And do you recall that the sources that you mentioned that were the source of your belief on those aspects of health problems related to smoking were articles that you read in magazines, TV shows that you had seen, American Medical Association journals that had been sent to you by your oldest son, National Safety

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Council material that you read at work at International Paper, and certain articles related to law cases that you had seen there at the Harkness law firm. Do you recall that testimony?

A. Yes.

Q. Did you show the American Medical Association articles to Virge?

A. No.

Q. Did you show the magazine articles to Virge?

A. I probably did, and I probably told him about it.

Q. Did you tell him about the American Medical Association article?

A. I don't think so.

Q. Why didn't you show it to him or tell him about it?

A. I don't remember.

Q. Did you discuss it with him?

A. I probably did.

Q. You wouldn't have any purpose in withholding it from him, would you?

A. No.

Q. How about the TV shows that you mentioned? Did Virge see those?

A. He probably did.

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Q. Did you show him the National Safety Council material that you read?

A. No.

Q. Did you tell him about it?

A. I don't remember.

Q. Would you have any reason not to tell him about it?

A. If I did, it was probably because he was in such bad health that I didn't want him to worry about it.

Q. I'm asking you, what are the facts? Would you have any reason not to tell him about it, not to share the --

A. That would be the reason, because he didn't know how ill he was.

Q. What's the source of your statement that he didn't know how ill he was?

A. Well, sometimes he didn't. Sometimes the doctor told me, but they didn't tell him.

Q. How do you know that?

A. Well, he didn't mention it if they did.

Q. Do you know that, or is that a surmise on your part?

A. I don't know that, no.

Q. How about the law material that you saw related

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to people suing cigarette companies that you looked up or you viewed there in the Markness law firm? Did you discuss that with Virge?

A. I think I did.

Q. Did you actually look that up yourself, or did you discuss it with one or the lawyers and ask him to look it up for you?

A. No. I looked it up myself.

Q. How did you go about that?

A. I just learned how to do a little research when I worked there.

Q. What did you look it up in, what publication?

A. I can't remember which ones I found it in now.

Q. Which ones did you look at; do you remember?

A. No. That's been a while back.

Q. Did you discuss that subject with any of the lawyers in the firm --

A. Yes.

Q. -- at that time?

A. Yes.

Q. Were you considering the institution of litigation with Virge for his health problem then?

A. I thought about it.

Q. Were you considering the institution of a lawsuit then, against a cigarette company?

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A. No.

Q. You mean you thought about it, but you weren't considering it?

A. No, not then.

Q. Tell me why you were looking it up.

A. I was interested in it.

Q. Why? Because your husband was sick?

A. Yes.

Q. Who was the gentleman that you talked to about it then?

A. Don Freedman.

Q. Was he one of the attorneys in the firm that you worked for?

A. Yes.

Q. Was he your boss?

A. Yes.

Q. This was at some time after y'all had come back from El Paso and before you went to International Paper Company?

A. Yes.

Q. Did you ask the lawyer to institute such a case?

A. We discussed it.

Q. Did you ask him to institute such a case?

A. No.

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Q. Did you ask him whether it would be advisable to institute a case?

A. We did discuss it, yes.

Q. You asked him whether or not you should?

A. No, not really. We just had some discussion about it.

Q. Tell me the nature of the discussion.

MR. LaGARDE: I object to any testimony about her discussions with an attorney.

Q. I don't want you to tell me what he said. But tell me what you asked him.

MR. LaGARDE: I'm going to instruct her not to tell anything about what she told the lawyer or what the lawyer told her. Attorney/client privilege.

Q. Did you tell Virge that you were discussing this subject with an attorney?

A. I don't think so.

Q. Did you discuss the bringing of this lawsuit with Virge before his death?

A. No.

Q. How did Mr. Faulkinbury get the nickname Taco -- was it "Taco Kid," the handle? How did he get that nickname?

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A. He loved tacos. When we were in El Paso, he just thought it up.

Q. He sort of self-christened himself with that name, or is that something that other people gave him?

A. No. He just thought of it himself.

Q. Do you know the names of any persons with whom Virge worked in the filling station business you talked about yesterday, before he married you?

A. No.

Q. Do you know the names of any of his associates in the trucking business that he had before he met you?

A. No.

Q. Can you remember the name of his boss at National Life and Accident?

A. Yes.

Q. Would you tell me what his boss' name was, please?

A. His immediate supervisor?

Q. Yes.

A. Elton Bachus.

Q. How do you spell that?

A. B-a-c-h-u-s.

Q. Can you tell me the name of any other supervisors or any other co-workers at National Life and Accident? And if you can, will you go ahead and tell me

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those names?

A. George Zotz.

Q. Spell that?

A. Z-o-t-z.

Q. Mr. Bachus and Mr. Zotz work in El Paso?

A. They were there the last time I heard.

Q. That's where y'all knew them?

A. Yes.

Q. The last time you had any contact with them, they were in El Paso?

A. Yes.

Q. Any other co-workers who you can recall who worked with Virge at that company in El Paso?

A. Joe Meeks.

Q. Joe Meeks?

A. Meeks.

Q. M-e-e-k-s?

A. Yes.

Q. Does he also live in El Paso?

A. He did then.

Q. Any other people that you can remember that Virge worked with at that company?

A. No.

Q. Reflect now, if you will, on Woodmen of the World. Can you remember the names of any of his

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co-workers or associates or his bosses at Woodmen of the World?

A. No, I can't remember his name.

Q. You can't remember his supervisor there?

A. No.

Q. Can you remember the names of any other people Virge worked with in the insurance business?

A. No.

Q. Can you remember the names of any of his co-workers at Day & Zimmermann?

A. No.

Q. Did you ever go out there to Day & Zimmermann and observe that place where he worked?

A. No.

Q. After you returned from El Paso to Texarkana, Arkansas, did you pay property taxes there to Miller County, Arkansas, on your residences in Arkansas?

A. No.

Q. Did you pay any ad valorem taxes?

A. No.

Q. Why?

A. Our mobile home was on his mother's land.

Q. And so his mother paid that. Is that the --

A. Yes.

Q. They don't levy a tax on a mobile home itself?

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A. I'm not sure if they had the personal property tax then or not.

Q. Didn't Mrs. Faulkinbury, his mother, die in '77?

A. No.

Q. She didn't? When did she die?

A. '82.

Q. Did Virge ever receive unemployment compensation from the State of Arkansas?

A. Not that I know of.

Q. Did he ever receive unemployment compensation from the State of Texas?

A. Not that I know of.

Q. Can you remember whether or not you showed Mr. Faulkinbury the American Medical Association articles?

A. No, I don't think I did.

Q. But you discussed the substance of what they said with him?

A. Some I did, and some I didn't. I don't remember exactly which ones I did.

Q. Well, is it generally true that you urged and attempted to persuade Mr. Faulkinbury to stop smoking after he began to develop pulmonary problems?

A. Yes.

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Q. And is it generally true that you shared the information that you had with him in order to try to persuade him to do that?

A. Some of it, yes.

Q. You didn't deliberately withhold any specific information from him that you can recall now, did you?

A. No.

Q. Essentially, you tried to convince him to come to your point of view, didn't you?

A. Yes.

Q. Had you ever attempted to persuade Mr. Faulkinbury to cease smoking before he got sick?

A. I don't remember.

Q. But you did after he began to develop problems, pulmonary problems?

A. Yes.

Q. Did you continue these efforts up through the years until, say, 1982?

A. Yes.

Q. Did you continue these efforts after 1982, up until the time of his death?

A. I don't think so.

Q. Why did you stop the efforts, and when did you stop?

A. Well, when he got the cancer, I just didn't

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figure it would do him any good.

Q. When was that, Mrs. Faulkinbury?

A. After we found out he had cancer.

Q. I'm asking you, when was that?

A. It would have been in '83.

Q. After he was in Dallas?

A. No. Probably before Dallas.

Q. Right before he went to Dallas?

A. I don't know. Probably sometimes during that year. I don't remember exactly when.

Q. All right.

(RECESS)

BY MR. STALLINGS:

Q. You told us that Virge made one more protracted effort to stop in 1977, when he had the heart problem that hospitalized him, followed by the ulcer problem a couple of days after discharge from the hospital the first time, and that this effort to stop lasted two to three months; correct?

A. Probably about that long.

Q. You told us that on other occasions he might stop for a matter of hours or he might stop while he was hospitalized and smoking was prohibited in the portions of the hospital where he was, or that he might stop for as much as a day; correct?

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A. Yes.

Q. As you urged him to stop smoking, as you told us you repeatedly did after he developed pulmonary problems, what did he say to you? Can you recall?

A. No.

Q. Can you recall the substance of his reaction to your entreaties and efforts to have him stop?

A. I don't remember if he said anything or not.

Q. You simply don't remember what he said to justify not following your advice?

A. No, I cannot remember anything that he said.

Q. Did you feel that he wanted to quit when you were telling him that he ought to; or did you form an opinion along those lines?

A. No, I didn't form an opinion.

Q. Did you urge your daughter not to smoke?

A. Yes.

Q. Did you urge your son, Karlton, not to smoke?

A. Yes.

Q. Repeatedly, in the case of each child?

A. Yes.

Q. They didn't follow your advice either?

A. No.

Q. Can you recall what they told you was the reason for disregarding your advice?

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A. They probably just ignored me. I don't know.

Q. Well, I certainly understand, Mrs. Faulkinbury, sometimes our children don't do what we say they ought to do. But you simply don't recall, in the case of either Evelyn or Karlton, their justification or their reasons for doing different from what you suggested?

A. No. I remember my daughter saying one time -- she said, "Well, Daddy does it." That's all I remember about it.

Q. You told us that you observed discussions between Virge and his doctors when his doctors told Virge to quit, Dr. Robinson, Dr. Davis, Dr. Hughes. Do you recall those things we talked about yesterday?

A. Yes.

Q. Can you recall what Virge would tell the doctors when they talked to him about that?

A. They usually didn't wait for a response. They just told him.

Q. You don't remember anything that Virge would have said in response to those suggestions by his physicians?

A. No.

Q. Okay. You told me that Dorothy Agan used to smoke, but she quit smoking. How do you know that?

A. I didn't tell you that, because I don't know.

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Q. Maybe I mischaracterized your testimony. You don't know whether she does or doesn't?

A. I was never around her.

Q. You told us that Henry used to smoke -- that's his older brother -- and he then quit. And you told us that Hazel, his sister, Virge's sister, had quit smoking recently, or at least Hazel says she has quit smoking recently; right?

A. That's right on Hazel. Now, on his brother, I can't remember if he ever smoked or not. But --

Q. Do you believe old Hazel when she tells you that?

A. No.

Q. You don't believe her? You don't believe Hazel quit?

A. Not altogether.

Q. Do you know whether or not Henry or Hazel talked to Virge about quitting?

A. I know that Hazel did.

Q. Was that in the same period of time that you were telling him to quit?

A. I'm sure it was.

Q. Starting in the area of '73 to '76 and continuing right on up until '82?

A. No, because we didn't see her then.

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Q. Just tell me when it was, then. Whenever she saw him in Little Rock -- I mean in Texarkana?

A. Yes.

Q. After he --

A. After --

Q. After he got sick and was hospitalized in Texarkana?

A. Yes.

Q. Did Randy urge his father to quit, or do you know?

A. I don't remember. I don't think he ever talked to him that much.

Q. Did Randy and his father have a good relationship?

A. It was fair.

Q. I kind of gathered they didn't see each other very much.

A. No.

Q. Is that right or wrong?

A. That's right.

Q. How was your relationship with Randy Faulkinbury?

A. About the same.

Q. I assume you don't know what Virge responded to his sister's suggestion that he quit smoking, do you?

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A. No, I can't remember.

Q. Did Virge ever make any efforts to cut back on smoking, but not cease entirely?

A. Yes.

Q. You understand what I'm asking you now? In other words, smoke less, not stop?

A. Yes.

Q. Did he ever do that?

A. Yes.

Q. When did he do that?

A. Over a period of the last few years.

Q. Help me by telling me what you mean by "the last few years."

A. Since he developed emphysema.

Q. Which he got, oh, in --

A. The '70's.

Q. Early '70's?

A. Yes.

Q. Did he have some success with those efforts or not?

A. No. He would just say, "I've got to have a cigarette."

Q. Well, did he, for any particular sustained period of time, smoke less?

A. I can't remember. He just smoked, you know. I

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didn't pay that much attention to him.

Q. Did he use any kind of artificial devices to smoke less?

A. Not that I remember.

Q. Water Pic filters or anything like that?

A. Not that I know of.

Q. When Virge was attempting to diminish the number of cigarettes he was smoking, did he ever change brands?

A. No.

Q. Did he ever change the type cigarette he was smoking?

A. No.

Q. Seek out any particular kind of low tar or low nicotine content cigarette?

A. Not that I know of.

Q. Can you remember how many times he tried to do that and how long these efforts lasted? I'm talking now about diminishing the number of cigarettes he smoked.

A. Various times, but I don't have any idea how many or when. Just during those years.

Q. Mrs. Faulkinbury, do you know why Virge was not able to quit in 1977?

A. No. He just kept wanting a cigarette.

Q. Do you know why he wasn't able to quit in the

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shorter attempts to stop that you described to us?

A. No.

Q. What is your belief, if you have one, as to why he was unable to quit, either in the two to three-month period of time he tried in 1977 or in the other shorter periods of time when he attempted to quit? Do you have a thought on that or an opinion?

A. No, other than he just told me he needed a cigarette.

Q. Did Virge demonstrate any physical manifestations of discomfort in 1977 when he tried to quit for two or three months?

A. He was always talking about it, and he was a little irritable.

Q. For example, did he have any -- did he hallucinate?

A. I don't remember.

Q. Did he have high fever?

A. If he did, it would be because he was sick, probably.

Q. Did he have sweating?

A. He was very ill during that time.

Q. I mean, did he demonstrate any other physical symptoms, apart from his illness? Or if you're not able to say, just tell me you're not able to say.

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A. I just don't know.

Q. You indicated yesterday that in the last few months of his life Virge smoked more than he had in the past. Is that the truth?

A. Yes.

Q. Why was that?

A. I don't have any reason.

Q. Did you discuss that with him, or did you just let him do it.

A. I just let him do it.

Q. Y'all didn't discuss it?

A. I don't remember that we did.

Q. Did Virge ever use any kind of a cigarette holder, you know, like FDR used to have his picture taken with?

A. Not that I can remember.

Q. Did Virge ever comment or say anything about the surgeon general warning on the cigarette package?

A. I can't remember that he did.

Q. Did you or the children ever discuss either of the two warnings that have been on cigarette packages with Virge?

A. I don't remember.

Q. Did any of you -- that is to say, you or Virge or Evelyn and Karlton -- ever use the phrase around

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Virge, "Cancer Sticks"?

A. I can't remember if we did.

Q. "Coffin Nails"?

A. I don't remember.

Q. Mrs. Faulkinbury, I've asked you about you and the children, I think, and the doctors and sister, brother. Do you know of any other person that Virge might have had discussions with about smoking and stopping smoking or continuing to smoke?

A. No.

Q. Virge never mentioned either of the two Surgeon General's warnings to you?

A. If he did, I don't remember.

Q. Did Virge ever use anything called an Aqua Filter?

A. Not that I know of.

Q. You mentioned your belief that Virge had cancer in 1983. Did any of his physicians suggest to Virge that he undergo a regimen of chemotherapy?

A. No.

Q. Either in Dallas or in Texarkana?

A. No.

Q. That subject simply wasn't ever discussed as a mode or treatment for Virge?

A. It was discussed, but not as a mode of

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treatment.

Q. I'm sorry, Mrs. Faulkinbury. I thought it wasn't mentioned. Maybe I misunderstood you.

A. Well, it wasn't mentioned the way you asked me the question. They told him.

MR. STALLINGS: Read me the last three questions.

(TESTIMONY READ)

BY MR. STALLINGS:

Q. Tell me who mentioned chemotherapy.

A. Dr. Williams in Dallas. It was not mentioned as a mode of treatment. He told him that he could not take chemotherapy.

Q. Did anyone else mention chemotherapy besides Dr. Williams in Dallas?

A. Not that I know of.

Q. Why couldn't Virge take chemotherapy, according to Dr. Williams?

A. He told him his condition was not good enough, that he couldn't take it.

Q. What did he mean by that?

A. I don't know.

Q. That his condition was not good enough, that he couldn't take it?

A. That's just what I remember that he told him.

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Q. Were you present?
A. Yes.
Q. Did you ask him what he meant by that?
A. No. We were going by his advice.
Q. Is that the only discussion or mention of chemotherapy by any of Virge's physicians?
A. As far as I can remember.
Q. Did Virge ever indicate to you whether he believed that cigarettes might be harmful to his health?
A. I just don't remember.
Q. Did he ever indicate to you that he thought cigarettes were good for him?
A. I don't know what he thought about it.
Q. You simply don't have any information to give us about Virge's opinion and belief about the effects of cigarette smoking on his health?
A. No.
Q. Did Virge ever mention The Council for Tobacco Research to you?
A. No, I don't remember that he did.
Q. Did Virge ever mention an organization called The Tobacco Institute to you?
A. Not that I know of.
Q. To your knowledge, had Virge ever heard of either The Council for Tobacco Research or The Tobacco

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Institute?

A. Not that I know of.

Q. Do you know if he ever read any medical journals, any publications, or any scientific articles by The Council for Tobacco Research?

A. I don't know if he did or not.

Q. Did he ever, to your knowledge, hear any statement by any representative of The Council for Tobacco Research?

A. I don't know.

Q. Did he ever, to your knowledge, hear of any statement by any representative of The Tobacco Institute?

A. Not to my knowledge.

Q. Or to your knowledge, did he ever read anything promulgated by either The Council for Tobacco Research or The Tobacco Institute?

A. I don't really know if he did or not.

Q. Have you ever heard of The Council for Tobacco Research?

A. I think so.

Q. Do you know anything about it?

A. Not really.

Q. Do you know anything about it other than the fact that it's named as a Defendant in the lawsuit

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that's been instituted on your behalf?

A. No.

Q. How about The Tobacco Institute? Do you know anything about The Tobacco Institute?

A. No.

Q. Have you read anything promulgated by either The Council for Tobacco Research or The Tobacco Institute?

A. I can't remember if I did or not.

Q. Have you ever heard any statement or seen any statement made by any representative of The Council for Tobacco Research or The Tobacco Institute?

A. Not that I recall.

(RECESS)

BY MR. STALLINGS:

Q. Mrs. Faulkinbury, can you remember Virge seeing or mentioning that he had seen any cigarette advertising on television or billboards or newspapers or magazines?

A. Well, I don't remember him saying it.

Q. You don't recall him mentioning that he had seen any such things or discussing with him cigarette advertising?

A. No, I don't remember.

Q. Do you recall him ever seeing any of those kinds of advertising by cigarette companies?

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A. If he did, I don't remember him saying anything about it.

Q. And you don't have any independent recollection of having seen it with him?

A. Not that I remember.

Q. Did you ever hear Virge discuss cigarette advertising, either with you or with any other person?

A. No.

Q. Did he ever specifically mention any advertisement about the cigarette brand that he smoked; that is, an advertisement for Raleigh cigarettes?

A. No.

Q. Do you know if he ever saw any Raleigh cigarette advertisements?

A. I don't remember.

Q. Do you know if Virge was influenced by any cigarette advertisement by Raleigh or Brown & Williamson or any other company?

A. I don't know that.

Q. If you don't remember him ever discussing it, I guess he never indicated to you that any advertisement had influenced him; is that fair?

A. I just can't remember him discussing it.

Q. Can you remember having any discussions with Virge about advertising for any other kind of product,

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not cigarettes?

A. No.

Q. Was Virge a person who used ads in deciding what to buy?

A. Not really, no.

Q. Was he a person, in your experience, that was skeptical about advertising?

A. He just didn't pay any attention to it. If he did, he bought what he wanted to.

Q. That's what I meant by "skeptical." He didn't pay much attention to advertising?

A. He bought what he wanted to. If he wanted a certain item, he bought it.

Q. As far as you can tell, he didn't heavily rely upon advertising in making that determination?

MR. LaGARDE: Do you know?

Q. If you know. If you don't know -- I don't want you to guess if you don't know.

A. I don't know.

Q. To your knowledge, did Virge ever have any employment where he prepared any advertising material?

A. Not that I know of.

Q. Mrs. Faulkinbury, would you look at your answers to interrogatories, and particularly No. 11? You told us yesterday that Virge was hospitalized for an

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appendectomy in 1965. Do you recall that?

A. I told you I didn't remember exactly what year. I think you told me what the date was.

Q. Well, it was about a year or so after y'all got married that he came down with appendicitis, wasn't it?

A. It wasn't very long.

Q. To your knowledge, before that time, before he had the appendectomy, how had Virge's health been?

A. Fine, as far as I know.

Q. How long did Virge enjoy good health after he had his appendix removed?

A. Well, he always had some kind of bronchitis sometimes. Other than that, he was all right, as far as I know.

Q. You told us about an occasion in 1977 when Virge developed acute respiratory failure, heart trouble, and an atrial flutter; do you remember that?

A. Yes.

Q. That's when he stopped smoking for two or three months; right?

A. Yes.

Q. Between that time -- that is, 1965 when he had the appendectomy and when he was hospitalized for the heart condition and the chronic obstructive pulmonary disease, how was his health in that period of time, that

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12-year period?

A. Well, he had a lot of colds and bronchitis. Other than that, he was all right as far as I know.

Q. Well, hadn't he retired for medical reasons the year before that, in 1976; and didn't we decide yesterday that, in fact, as of the summer of 1976 he was disabled?

A. Yes.

Q. You see there in your answer to interrogatory No. 11 -- let's go through these hospitalizations quickly, Mrs. Faulkinbury.

February 20 to March 3rd, that's when Virge had congestive heart failure. And he also had pulmonary problems then, didn't he?

A. Yes.

Q. And he apparently went home for just a day or two and came back on March 5 to be hospitalized for nine or ten days because he had a bleeding ulcer; correct?

A. Yes.

Q. Virge then stayed home the last two weeks in March and April of 1977, and was readmitted to the hospital on May 19, 1977, for about four or five days; right?

A. Yes.

Q. Now, why did he go into the hospital in May of

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1977? That would be his third admission in 1977 at St. Michael's.

A. Motorcycle fell over on him and fractured his ribs against the steps.

Q. Did Virge then learn that he had a generalized bone problem?

A. Yes.

Q. Did he know it before, or did he learn it then?

A. No. He knew it before.

Q. When you married Virge, how tall was he?

A. Six-one, I know.

Q. As the years went by, did Virge get shorter by virtue of the fact that he had spinal problems?

A. Yes.

Q. He was hunched over; correct?

A. Yes.

Q. He had a generalized osteoporosis, didn't he?

A. Yes.

Q. And he had a partial spinal collapse in the thoracic spine and down into the lower back?

A. I think that's what they called it.

Q. Can you remember whether Virge was hospitalized again in St. Mary's in 1976?

A. No, I don't remember. I couldn't find anything on that year.

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Q. Well, it's certainly understandable that it might be missed with the voluminous medical records. But you don't remember him being hospitalized in the summer of '78 with acute bronchitis and chronic obstructive pulmonary disease and congestive heart failure?

A. He was in there so many times, if I didn't look at the record, I couldn't remember.

Q. I can understand, Mrs. Faulkinbury.

Q. Virge was back in the hospital in February of '79 --

A. Yes.

Q. -- under the care of Dr. Robinson. Did he then have severe bronchitis with chronic obstructive pulmonary disease and a compensated congestive heart failure? Was that the problem that time?

A. I don't remember what he was in there for.

Q. In July of 1979, did Virge have cholecystitis; that is to say, gallbladder disease?

A. Well, that was connected, I think. They found that out later. I think I took him up there because he was having pains in his chest, couldn't breathe.

Q. Wasn't he operated on for gallbladder in August of '79?

A. I think that's about when it was.

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Q. Do you remember him being admitted a couple of times, once for gallbladder and then them sending him home to come back and have the surgery a little later?

A. Yes.

Q. What was Virge hospitalized for in the Wadley hospital the first time, Mrs. Faulkinbury?

A. I think he was only over there one time, and he had to go over there for some kind of test that they wanted to do. But I don't remember what it was.

Q. Is that when it was determined that Virge had chronic active hepatitis?

A. I really don't remember.

Q. Actually, he was hospitalized there twice, was he not, another time for a hemorrhoidectomy?

A. In Wadley?

Q. Yes. Later in 1982, didn't he have a hemorrhoidectomy at Wadley?

A. He had one, but I don't remember if it was at Wadley or not.

Q. Can you remember any of the details of his first hospitalization at the Wadley hospital?

A. No. They just did some tests.

Q. Virge did have a chronic hepatitis condition, didn't he, by 1980? Hasn't that been diagnosed by that time?

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A. It was about then, yes.

Q. And since '77, he had had chronic obstructive pulmonary disease, which he continued to have for the rest of his life; correct?

A. Yes.

Q. He had had bleeding ulcers in 1977; correct?

A. Yes.

Q. He had degenerative spine and the generalized osteoporosis before 1977; correct?

A. I don't know if it had ever been diagnosed or not.

Q. It was diagnosed at least as of the middle of 1977, wasn't it?

A. Yes.

Q. Virge had been told that he had emphysema in El Paso; is that true?

A. I think Dr. Thomas told him that he did.

Q. He had heart trouble and congestive heart trouble and atrial flutter as early as '77?

A. I don't think he had any heart trouble.

Q. Do you recall that you told us in 1977 he was admitted for atrial flutter and heart difficulty, and that's the time that he stopped smoking for two to three months? Do you remember that?

A. Yes.

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Q. That was in 1977?

A. Yes.

Q. He had an acute and chronic bronchitis condition since the early '70's?

A. Off and on, he did.

Q. In September of 1980 -- you see, that's the top of your answer on the second one on your answer to interrogatory 11.

A. Yes.

Q. Virge was admitted for multiple rib fractures, kidney stones, active hepatitis and osteoporosis; is that right?

A. I think so, yes.

Q. How did he get the rib fractures? Was that an accident, or was this just a degenerative thing? Or what was that?

A. His ribs had started expanding. He could just bend over, and his ribs would crack or get out of place.

Q. It looks like Virge was back in the hospital at the end of 1980 up until January 5th or so of 1981; is that right?

A. Well, I show the first of the year, '81.

Q. That was another admission for pulmonary problems, wasn't it?

A. Yes.

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Q. In June of that year, my recollection of these records is that Virge was admitted for kidney stones with bronchitis, hepatitis and chronic obstructive pulmonary disease. Is that your recollection also?

A. Well, I'd have to look at the records; but I'm sure that's probably about right.

Q. In September of 1981, Virge had to be readmitted for the same kind of difficulties then, wasn't it?

A. I don't have that down. I don't remember.

Q. During this period of time that we've been talking about, from '77, Virge continued to suffer from lung disease, bronchitis, hepatitis, kidney stones, with an incident of gallbladder disease; correct?

A. Yes.

Q. I've got a notation that Virge went in -- just apparently the emergency room -- in April of '82 for a fractured finger. What happened?

A. I wasn't there.

Q. Do you know what happened? Can you remember?

A. It was something about he fell off of something at his sister's. I can't remember exactly what happened.

Q. Mrs. Faulkinbury, can you remember the year, calendar year 1982? I'm just trying to get oriented.

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Can you remember, for example, that the hemorrhoidectomy was kind of early in the year?

A. In '82?

Q. Yes.

A. Yes, seems like it was.

Q. Can you remember then that Virge got worse in the late summer and early fall of that year, 1982, and was back in the hospital in September, the end of September of '82?

A. Yes.

Q. And by that time, Virge had gotten worse, hadn't he?

A. Yes.

Q. All of the disease problems he had were again manifest; that is, the hepatitis, the bronchial condition, the obstructive lung disease, the peptic ulcer and the osteoporosis. Those were all bothering Virge at that time, weren't they?

A. I don't know if the ulcer was. He had already had it removed.

Q. The other conditions were giving him difficulty?

A. Yes.

Q. Virge was home for Christmas, was he, that year? He was not in the hospital Christmas '82?

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A. No.

Q. He was back in the hospital in March of '83?

A. Yes.

Q. And then he was back in St. Michael's again in May of '83; right?

A. Yes.

Q. And then in June you went to Baylor University Medical Center in Dallas; right?

A. Yes.

Q. Did you, incidentally, go with Virge to Dallas?

A. Yes.

Q. I noted in the records for May of '83, a mention of two small noncalcified nodules immediately adjacent to each other in the left upper lobe of Virge's lungs. And that's in the hospitalization for May 11 to 14, 1983; okay?

A. Yes.

Q. Now, when was it that you or Virge were first advised that there were two small nodules in his left lung?

A. I didn't know there were two. I knew they told us there was a spot on his lungs, is what they called it.

Q. When were you first advised there was a spot on his lung?

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A. I think that was in late '82.

Q. Was it a time while Virge was in the hospital, or was it as a result of going to a doctor's office?

A. No. He was in there.

Q. Was that the admission for September 30 through October 4, '82?

A. Yes, I think that's about right.

Q. Now, who told you there was a spot on his left lobe?

A. Seems like it was Dr. Hughes that came in and told us. I'm not real sure about that, but I think it was.

Q. Can you recall that in May of '83, at St. Michael's, that they did a bronchoscopy on Virge?

A. Yes.

Q. Was that done by Dr. Duncan?

A. I don't remember who did that.

Q. Were you advised and was Virge advised that it was negative?

A. That's not what they told -- that's not what I remember them saying. They told us they could not get to it and they could not identify it.

Q. Who told you they could not get to it?

A. Whoever did it. I don't remember if it was a doctor, or who.

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Q. Whoever the doctor was that did it said basically what?

A. As well as I remember, they just told us that they could not get to the spot, they could not identify as to what it was. That's my recollection.

Q. All right. Did they tell you that they had done something called bronchial washing? Or do you remember that?

A. Yes, they told us they were going to do something like that.

Q. Did they tell you they were going to examine some sputum cells of Virge?

A. Yes.

Q. Did they tell you the bronchial washing analysis was negative?

A. I don't remember.

Q. How about the sputum cells? Did they tell you that was negative?

A. I don't remember.

Q. Was it left, as of April of '83 when y'all left St. Michael's, that they couldn't identify what it was in Virge's left lung?

A. When he went out that time.

Q. I'm sorry, ma'am. I don't understand. When who went out that time?

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A. When Virge got out of the hospital at that time, they told us that.

Q. Is that right, that as of April '83, had anybody told you that Virge had cancer of the lung?

A. They told him that they thought it was.

Q. When you say "They told him," who are you referring to?

A. He had so many doctors, I can't remember. Usually Dr. Robinson, Dr. Hughes.

Q. Are you telling me they told him they thought it was cancer, but they couldn't be sure?

A. Yes.

Q. Are you telling me they told you they saw something on x-ray, but they really weren't able to prove by other testing what it was?

A. Yes.

Q. And Virge wasn't a candidate for surgery in order to determine by surgery what it was?

A. That's right.

Q. So they looked at it on an x-ray, and they saw a spot; right?

A. Right.

Q. Then they did a series of testings; but the testing really didn't show that it was cancer, at least up until that point in time?

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A. They said they could not get down far enough to get a piece of it.

Q. And such testing as they did did not confirm that it was cancer as of the middle of May; is that right?

A. As far as I remember.

Q. So then y'all went to Baylor University Medical Center in Dallas?

A. Yes.

Q. And were you there under the treatment of Dr. Richard Williams?

A. Yes.

Q. Did they do another bronchoscopy in Dallas?

A. Yes.

Q. Was that one inconclusive also?

A. Seems like it was.

Q. At that point in time, was it essentially the same thing, they were looking at something on x-ray but unable to confirm that it was cancer?

A. Yes.

Q. So then did they get another doctor in, a Dr. Maruf Ruzzek? Did they get a Dr. Ruzzek in?

A. He was in, yes.

Q. And did he do an additional procedure?

A. One of them did. I think it was him.

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Q. Is he the one that did the mediastinal exploration and the biopsy of lymph nodes?

A. I didn't know what you called it.

Q. What did the doctor in Dallas tell you that Virge had?

A. Which one?

Q. Well, tell me how many gave you diagnostic information; then we'll go through them. How many gave you information about what he had?

A. Well, Dr. Williams is the first one we saw.

Q. Who else besides Dr. Williams talked to you about what Virge had?

A. Well, they all did.

Q. How about Dr. Ruzzek? Did he tell you anything? I'm not asking you to tell me what he told you. I'm just trying to find out which are the doctors that gave you information about what Virge had in that --

A. Well, he had so many there that I can't remember which one told us what and what they said.

Q. Okay.

A. I mean, they were in and out all the time.

Q. Sure. Well, can you remember any other names besides Dr. Williams and Dr. Ruzzek?

A. There was another one, but I don't remember his

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name.

Q. Did they tell you, in substance, in Dallas the same thing that they told you in Texarkana?

A. No, I don't think so.

Q. Then tell me what it was that Dr. Williams told you about what Virge had.

A. Well, when he looked at the x-rays, he said that it had been growing and that he thought it was cancer; but they would have to do tests.

Q. Okay. And then what did he say after they did the tests?

A. Well, they told him that it was cancer.

Q. Who told him that?

A. Well, I don't remember. Probably all of them. Dr. Williams was the main one that we had.

Q. Did any of the doctors tell you that any of the tests that they performed, after looking at the x-rays, were positive for cancer?

A. Well, I think Dr. Williams did.

Q. Do you have any idea what test he might have been referring to?

A. Probably the last one they did.

Q. What was it? What kind?

A. I don't remember what kind it was.

Q. Didn't they basically tell you the same thing

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that the doctors had told you in Arkansas, that there was a spot on his lung?

A. No. They got a piece, I think, the last time.

Q. Did anybody tell you they got a piece of it?

A. I think they did, as well as I remember.

Q. Is that advice you got from Dr. Williams, you think, or Dr. Ruzzek?

A. Whoever did the last part of it. I don't think if it was Ruzzek or who did it.

Q. Do you recall anyone telling you the same thing that you'd been told in Arkansas, that they saw something by x-ray on his lung, but that they couldn't confirm that it was cancer by any of the tests that they did?

A. I don't remember.

Q. Did you tell me it was Dr. Williams that suggested to you that it would be inappropriate for Virge to have chemotherapy?

A. Yes.

Q. And so y'all returned to Texarkana after being hospitalized at Baylor University Medical Center; and then Virge had cobalt therapy, did he?

A. Yes.

Q. I can't tell from the hospital records how that proceeded. Was he admitted to the hospital, or did he

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basically stay at home and then go down and have that and go home every day.

A. The radiation treatments?

Q. Yes, ma'am.

A. No. He would go have the treatments and go back home.

Q. Did he have that for, oh, a couple of months, July and August of '83?

A. Yes.

Q. Was that administered on a daily basis, or how often did they give Virge the cobalt?

A. He took them like so many days. Seemed like it was seven days. Then he was off a few days and then back again.

Q. And that was under what doctor that he received that cobalt therapy?

A. Dr. Williams in Dallas.

Q. I thought it was administered back in Arkansas.

A. It was. But he gave the advice to somebody so that he could take the treatments in Texarkana.

Q. Who was the doctor that gave the treatments in Texarkana is what I was trying to find out?

A. I don't remember his name.

Q. How did those treatments progress; do you know?

A. I don't know.

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Q. As a matter of fact, did the spot on Virge's lung disappear as a result of those treatments?

A. He told me it did.

Q. "He" being Virge, or "he" being one of the doctors?

A. The doctor I talked to in St. Michael's.

Q. Was that a new doctor that y'all had not been dealing with over the previous years?

A. Yes. He was somebody at St. Michael's.

Q. And that person that administered the cobalt therapy told you that the spot had gone away?

A. He told me, yes.

Q. Mrs. Faulkinbury, has anyone told you that Virge died of cancer?

A. Yes -- well, he didn't tell me he died. I didn't talk to Dr. Robinson after he died. He told me when I went up there the last time that his cancer had spread.

MR. STALLINGS: Please read me that.

(QUESTION READ)

BY MR. STALLINGS:

Q. Has any physician told you that Virge died of lung cancer?

A. I haven't talked to any of them.

Q. Therefore, the answer is no one has told you he

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died of lung cancer?

A. No.

Q. Is that correct?

A. That's correct.

Q. When you said "He told me the last time I went up there," were you referring to Dr. Robinson?

A. Yes.

Q. Is that the time that you went -- that he saw Virge last?

A. No. That's the day he was entered -- admitted to the hospital.

Q. Okay. And we're talking about his last admission?

A. Yes.

Q. So that would be about September 23 of 1983; right?

A. I think that's about the date.

Q. And was that the last time that you talked to his doctors?

A. I talked to the doctor the day before he died, the day before the night he died.

Q. And that would be Dr. Robinson, or somebody else?

A. No. I think it was Dr. Robinson.

Q. What did he tell you the day before the night

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that Virge died?

A. He didn't tell me much of anything.

Q. On the 23rd, you say Dr. Robinson told you his cancer had spread?

A. Yes, when he looked at the x-ray.

Q. Did any of Virge's physicians who treated him during his many hospitalizations at St. Michael's hospital there in Texarkana ever mention a disease called hyperparathyroidism?

A. Not that I remember.

Q. Was there any discussion with Dr. Robinson about chemotherapy --

A. Not that I remember.

Q. -- either in the last discussions that you just mentioned or earlier?

A. No.

Q. The only hospitals that Virge ever admitted to while you were married to him was St. Michael's, Wadley, and Baylor University in Dallas?

A. As far as I know.

Q. Do you know if he'd ever been admitted to any other hospitals before y'all got married?

A. No, I don't know.

Q. Do you have any of Virge's x-rays?

A. No.

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Q. Did you ever have any?
A. Not, except just to take to Dallas.
Q. Just the ones you took from Texarkana to Dallas?
A. Yes.
Q. Did you leave them in Dallas?
A. Yes.
Q. When Virge had the gallbladder problem or when he had kidney stones, did he ever change his diet on a doctor's suggestion?
A. Yes.
Q. Pardon?
A. Yes.
Q. For which? Both or either one, or what?
A. For kidney stones -- and what was the other?
Q. Gallbladder.
A. Yes.
Q. Did some one of his doctors -- when he had the cholecystitis, did one or his doctors say, "You ought to quit eating this," or what?
A. They just gave him a diet to follow.
Q. Was it a long-term diet that he should pursue?
A. No. It was short-term. It was just something in between when they decided to do the surgery.
Q. And did he follow the advice of the doctor and

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do what he was supposed to on his diet?

A. Yes.

Q. How about when he had kidney stones? Did he have any diet modification or any instructions from his doctors as to what he should do?

A. I don't remember on that.

Q. How about when he had the heart difficulties? Did the doctor suggest anything that he should or shouldn't eat?

A. I don't remember that, either.

Q. Were you cooking anything with no salt or low salt recipes or anything like that?

A. No, I didn't. I just cooked like I always did.

Q. Was there any other time after '76 that the doctors told Virge to change his eating habits?

A. After he had the ulcer surgery.

Q. What doctor?

A. I think it was Dr. Barnes, the one that did the surgery.

Q. Did he give Virge some advice about what he shouldn't eat in the future?

A. Yes.

Q. What was it?

A. Told him he'd have to eat like six meals a day, six small meals a day, and no sweets.

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Q. For how long was Virge supposed to do that?
A. I don't remember.
Q. Was it something he was supposed to do permanently, or was it something he did for some particular period of time?
A. I don't remember if he gave him a time limit.
Q. Did he do it?
A. Yes. He had to.
Q. Did he quit eating sweets, and did he eat six little meals a day?
A. Yes.
Q. How long did he do that, or can you remember?
A. Nearly all the time.
Q. He continued to do that, then?
A. Yes.
Q. For the rest of his life?
A. He coulan't eat very much at one time.
Q. Did he follow that doctor's advice for the rest of his life, then?
A. Well, sometimes he would not.
Q. For the most part, he did?
A. I would say probably.
Q. Did the doctors perform an autopsy on Virge?
A. No.
Q. Was an autopsy discussed?

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A. No.

Q. Was it mentioned?

A. No, I don't think so.

Q. Did any doctor ask you for permission to perform an autopsy?

A. No.

Q. Did any doctor ask any other family member for permission to perform an autopsy?

A. Not that I know of.

Q. Did you want one?

A. No.

Q. Was there any particular reason you did not want one?

(WITNESS LEAVES ROOM)

(RECESS)

BY MR. STALLINGS:

Q. Mrs. Faulkinbury, who would be the person who would be knowledgeable about Virge's general health in the years before 1964, when you and Virge were married? His sister?

A. Probably. But she didn't live around him a lot of the time.

Q. Who would be the best source of information on that?

A. I don't really know.

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Q. His son?
A. I don't know how close they were then.
Q. Do you ever recall reading any information about smoking not being harmful to one's health?
A. No.
Q. Do you remember Virge ever telling you that he had ever read any information about smoking not being harmful to one's health?
A. No.
Q. Was Virge a calm and easy-going person, or would you say he was a nervous and tense person? Or how would you describe him?
A. He was usually calm and easy-going.
Q. Was he a methodical person?
A. I don't know what you mean.
Q. Deliberate, reasoned kind of a person?
A. No, I wouldn't think so.
Q. Was he careless?
A. No, I wouldn't think so.
Q. Was he an outgoing person and a talkative person, or was he more the introvert type personality?
A. He was outgoing most of the time.
Q. Did you think he was a sensitive person?
A. Yes.
Q. Were his feelings easily hurt?

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A. No, I don't think so.

Q. Was he moody?

A. No, I wouldn't say he was moody.

Q. Did he bite his nails or chew pencils or have any of that kind of manifestation of nervousness?

A. No.

Q. Did he have a temper?

A. Not a real bad temper, no.

Q. Was he easily upset?

A. No.

Q. In a group of people, was he laid back or outgoing?

A. Outgoing.

Q. After you were married, did you ever feel that he was under stress or unusual pressure from any employment situation?

A. No.

Q. How about did he ever lead you to believe that he was under any stress or mental pressure from any family situation?

A. No.

Q. Can you recall whether Virge was under stress or pressure from any other situation?

A. No. He didn't let a lot of things bother him.

Q. Are you aware, Mrs. Faulkinbury, of the

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circumstances of his childhood?

A. No.

Q. Do you know, for example, whether he had a happy childhood or whether there was discord and it was unhappy?

A. He never mentioned anything about it.

Q. So you don't know one way or the other?

A. No.

Q. Did Virge ever diet for the purposes of weight control --

A. No.

Q. -- as distinguished from health problems?

A. No.

Q. Was Virge a coffee drinker?

A. Well, he drank coffee.

Q. About how much coffee would he drink a day?

A. I would say four or five cups a day, maybe.

Q. Was it regular old coffee, or that decaf like they've got out in the hall there?

A. Well, after he had the ulcer surgery he had to go to decaffeinated.

Q. And did he do that? Is that what he had and drank after he had the ulcer surgery?

A. At home, he did.

Q. That's what you bought at the grocery store,

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and that's what you made?

A. Yes.

Q. Did Virge have dentures?

A. No.

Q. Wear glasses?

A. Yes.

Q. Since what year?

A. Late '60's, I think.

Q. Did Virge have a cancer insurance policy?

A. No.

Q. Did Virge sell insurance policies on different premium rates for smokers and nonsmokers?

A. I don't know.

Q. Did you ever discuss that fact with him, inasmuch as he was in the life insurance sales business for part of your married life?

A. No.

Q. Virge was never a party to any lawsuit that you know about, except for divorce actions; is that correct?

A. That's correct, that I know of.

Q. Virge has no criminal record of any kind; is that correct?

A. Not that I know of.

Q. Was he ever rejected by any insurance company to whom he applied for a policy?

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A. Not that I know of.

Q. Was he ever rejected for physical reasons from any employment that he sought?

A. I can't remember any if he was.

Q. Do you know if Virge ever sold cigarettes in his businesses, his filling stations?

A. I don't know.

Q. Or if he ever got cigarettes from his own stock of such in one of his businesses?

A. I don't know.

Q. Can you remember the substance of any of the articles sent to you by your older son from the AMA journal?

A. No. It's been a long time since I read those.

Q. Did Virge ever attempt to discourage either Karlton or Evelyn from smoking?

A. When they were younger, he would tell them not to smoke.

Q. Do you remember if he'd tell them why, or just tell them not to?

A. I don't remember if he told them why.

Q. When you say "when they were younger," you mean when they were younger and living at home?

A. Yes.

Q. Did he smoke in front of the children?

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A. Yes.

Q. Did he give them cigarettes to smoke themselves?

A. Not that I know of.

Q. He had urged them not to, though, both your daughter and your son?

A. When they were younger, he did.

Q. Mrs. Faulkinbury, do you recall any of the nurses urging Virge not to smoke during his hospital stays at St. Michael's?

A. Well, the only thing I remember about that is they would tell him, "You can't smoke in here. You have oxygen."

Q. Do you remember any advice to him not related to oxygen, though, by the nurses?

A. Not that I remember.

Q. How about at Wadley Hospital? Do you remember any of the nurses talking to Virge about smoking in your presence?

A. No.

Q. Bear with me, Mrs. Faulkinbury. We're about to wind it down. I need to ask you a few questions about these mobile homes.

Could you tell me how many different mobile homes you and Virge lived in?

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A. Yes. I think I said three or four.

Q. How many did y'all own, or how many were you buying rather than renting?

A. I'd say four now, including the one now.

Q. Were you buying them all, then, instead of renting them?

A. Yes.

Q. In each case, did you finance the mobile home through a bank or some other lending institution?

A. Yes.

Q. What bank or lending institution did you use to finance the purchase?

A. Well, some I don't remember.

Q. Tell me those you do remember.

A. State First National Bank.

Q. Pardon me?

A. State First National Bank.

Q. Is that in Texarkana?

A. Yes.

Q. One or more at that place? Which is it?

A. Two, I think.

Q. Can you remember where you financed the others?

A. One was to an individual.

Q. Who?

A. Well, I can't remember her name right now. And

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I don't remember who the other one was financed with.

Q. Do you know who made the mobile homes, who manufactured them?

A. No.

Q. Do you know what kind they were, like Vaquero, Trailblazer, or whatever?

A. One was a Fleetwood.

Q. Fleetwood?

A. Yes.

Q. What's the one you're living in now?

A. I think it's called a Manor, M-a-n-o-r.

Q. How about the other two?

A. I don't remember what they were.

Q. Can you remember where you bought or from whom you bought each of them?

A. Most of them.

Q. Are you willing to tell me?

A. Two were from Posey Mobile Home.

Q. Posey Mobile Homes?

A. Yes.

Q. Is that in Texarkana?

A. Yes.

Q. How about the other two?

A. The other two were from individuals. I don't know her name, or the other person's name, either.

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Q. Did you buy two used, two new?

A. No. I said two from Posey. We only bought one from Posey, that's right, and one from -- I can't remember this place. Four States Housing Investment Company.

Q. What was that, please?

A. Four States Housing Company.

Q. When Virge was not smoking in 1977, for that two to three-month period, can you remember whether or not he had any muscle tension or soreness; or can you remember?

A. I can't remember.

Q. Constipation?

A. I don't know.

Q. Unusual fatigue?

A. Well, he was always very tired.

Q. Because of his general pulmonary condition?

A. Yes.

Q. During that period of time, did he have a particular loss of appetite?

A. I don't remember.

Q. Did he have, at that particular time, any particular difficulty in concentration; or can you remember?

A. Well, I can't remember.

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Q. Headaches?
A. I don't remember.
Q. Drowsiness?
A. Well, yes, he slept a lot.
Q. He slept a lot generally, didn't he?
A. Yes.
Q. Did he have, in that particular time in '77, any particular intestinal problems or stomach difficulty that you can remember?
A. Well, yes. He had had that ulcer surgery.
Q. Anything other than the ulcer surgery?
A. Relating --
Q. Relating to stomach or intestines?
A. I don't remember.
Q. At that particular time in 1977, do you remember whether or not he had any diminished heart rate?
A. Well, he had a problem with his heart rate.
Q. I'm talking about anything that came on in that particular two or three-month period that you're aware of.
A. Well, in '77 is when he had that flutter.
Q. That's when he had the atrial flutter that caused him to be put in the hospital before he stopped smoking. Okay.

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Do you recall any symptoms relating to elevated skin temperature or fever in that period of time?

A. I don't know.

Q. You told us that you had continued to urge Virge to stop smoking; right?

A. Yes.

Q. Up until '82. That was because of your belief about coughing and cancer and pulmonary problems that you thought were related to smoking, was it not?

A. Yes.

Q. And it was because of your concern for Virge?

A. Yes.

Q. I take it that you continued to urge him not to smoke because you felt that he had the ability to stop if he set his mind to it?

A. I don't know if I'd say that or not.

Q. Mrs. Faulkinbury, did Virge ever mention having seen or heard reports or materials that mentioned the benefits or pleasures associated with cigarette smoking?

A. I don't know.

Q. Did Virge ever mention having seen or heard material critical of reports that smoking increased a smoker's cancer risk?

A. I don't remember if he did or not.

Q. Did Virge ever mention to you having seen or

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heard of any reports that stated that smoking cigarettes did not result in harm or adverse effect upon smokers?

A. I don't remember.

Q. Did any doctor or medical person ever tell Virge that smoking was good for a smoker, to your knowledge?

A. Not to my knowledge.

Q. Do you know if Virge ever read or received or heard of any material put out by Brown & Williamson Tobacco Corporation?

A. I just wouldn't know.

Q. Did Virge ever mention to you having seen or heard of any statement or report that cigarettes were proper and safe for human consumption?

A. Not that I know of.

Q. Virge was aware of the fact that he had chronic obstructive pulmonary disease from the early '70's?

A. Yes.

Q. And his doctors had advised him that he had emphysema in the '70's?

A. Yes.

Q. And he knew that he had bronchitis, from his physicians in the '70's?

A. Yes.

Q. Before coming to give your deposition, did you

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talk to anyone about your deposition, other than your attorney and his assistant?

A. No.

Q. Did you talk to any of your family members about the fact that you were going to give a deposition?

A. Yes.

Q. Who?

A. My son.

Q. Karlton or Robert?

A. Karlton.

Q. What was the substance of that discussion?

A. I just told him where I was going and what I was going to do.

Q. Did y'all discuss the lawsuit, or did you just tell him you were coming here to Houston to give your testimony?

A. I just told him I was coming.

Q. You and Karlton didn't discuss the subject of your testimony?

A. No. We didn't know what to discuss.

Q. Did you read any material in preparation for giving your deposition, other than the interrogatories that we've referred to and the pleadings and the medical records?

A. No.

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Q. You referred to having seen a letter by Dr. Davis.

A. Yes.

Q. Is the letter that I just handed you the letter that you're referring to?

A. Looks like it, yes.

MR. STALLINGS: Mark that for me, please, Mr. Reporter.

(EXHIBIT NO. 1 MARKED FOR IDENTIFICATION)

BY MR. STALLINGS:

Q. Mrs. Faulkinbury, looking at the letter that's marked Faulkinbury Exhibit 1, dated September of 1976, when did you first see a copy of the letter? Was it back in 1976 when Virge was applying for disability benefits?

A. Yes.

Q. Did you receive the letter soon after it was written?

A. I don't remember when we got that.

Q. Did you look at it when he was processing his initial application for Social Security benefits?

A. I don't really know how we got it.

Q. I'm not yet asking you how you got it. I'm asking you whether or not you saw it back when Virge was

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making his initial application for Social Security benefits.

A. I didn't. He went by himself.

Q. You tell me when you first saw it.

A. I don't remember.

Q. Was it quite some time ago?

A. Yes.

Q. Was it while you were living in El Paso?

A. No.

Q. Was it before Virge was hospitalized for the heart problems in early 1977?

A. Yes.

Q. Did Virge also see the letter marked as Faulkinbury No. 1, authored by Dr. Davis?

A. I don't know.

Q. Did you ever discuss the letter with Virge?

A. I don't really remember.

Q. Did you ever discuss it with Dr. Davis?

A. No.

Q. But you're clear that you saw it at least before the first part of 1977, when he had his heart problem?

A. Well, I think so. I just don't remember when.

Q. Did the family switch doctors, from Dr. Davis to Dr. Robinson?

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A. No.

Q. Did Virge continue to be treated by Dr. Davis?

A. No.

Q. Was there some reason that he didn't continue to be treated by Dr. Davis?

A. When he had the heart failure, Dr. Davis was not there. Another doctor was there, and he called in Dr. Robinson because he was a lung specialist. And we continued to see Dr. Robinson after that.

Q. Did you ever see Dr. Davis after that?

A. No.

Q. Well, y'all just changed doctors, then; is that right?

A. I guess he did.

Q. Well, after the 1977 heart problem, you never saw Dr. Davis again for treatment?

A. I don't think he did.

Q. Virge never saw him again?

A. Right.

Q. Up until that time, Dr. Davis had been Virge's doctor?

A. Since we'd come back from El Paso.

Q. Did Virge have a broken shoulder at some point when y'all were living in El Paso?

A. Yes.

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Q. What were the circumstances? How did he get that?

A. It was at night at an apartment, and he stepped off a concrete walkway and fell and broke his shoulder.

Q. Was he hospitalized then?

A. No.

MR. STALLINGS: Mrs. Faulkinbury, I don't think I have any more questions for you right now.

MR. LaGARDE: We'll reserve ours.

(DEPOSITION CONCLUDED AT 11:35 A.M.)

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SIGNATURE OF WITNESS

I, MARGARET FAULKINBURY, solemnly swear or affirm, under the pains and penalties of perjury, that the foregoing 75 pages contain a true and correct transcript of the testimony given by me at the time and place stated, with the corrections, if any, and the reasons therefor noted on a separate sheet of paper and attached hereto, and that I am signing this before a Notary Public.

_____

MARGARET FAULKINBURY

THE STATE OF TEXAS]

Subscribed and sworn to before me, the undersigned authority, by the said MARGARET FAULKINBURY on this the ____ day of _____, 1986.

_____

Notary Public in and for the State of Texas

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THE STATE OF TEXAS]

CERTIFICATE

I, C. Dixon Towery, III, Certified Shorthand Reporter No. 2635 and Notary Public in and for the State of Texas, do hereby certify that I am not related to or employed by any of the parties hereto, or their Council, and that I am not in any way interested in the outcome of this matter.

I further certify that the above and foregoing contains a true and correct transcript of the testimony.

Certified on August 20, 1986.

C. Dixon Towery, III
CSR No. 2635
2900 Smith, Suite 104
Houston, Texas 77006
(713) 523-3767

My Certificate Expires January 1, 1987.
My Notary Commission Expires March 9, 1988.

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LAWYER'S NOTES

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